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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

BOBBY LEYVA,

Defendant and Appellant.

B212542

(Los Angeles County Super. Ct.  
No. LA057979)

APPEAL from a judgment of the Superior Court of Los Angeles County, Richard Kirschner, Judge. Affirmed.

Thomas Owen, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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Defendant and appellant Bobby Leyva was convicted by jury of second degree robbery (Pen. Code, § 211),<sup>1</sup> with a special finding defendant personally used a deadly or dangerous weapon in the commission of the offense (§ 12022, subd. (b)(1)). Defendant admitted serving four prior prison terms (§ 667.5, subd. (b)). After being sentenced to state prison for six years, defendant filed a timely notice of appeal from the judgment.

## **FACTS**

Russell Tan was walking on Vanowen Street at 11:00 p.m. on January 29, 2008, when defendant began shouting at him. Tan tried to walk away quickly, but defendant ran toward him, grabbed his jacket, and struck Tan with what he believed to be a punch to the left side of his back. Defendant, who had a knife in his right hand, shouted at Tan to give him his wallet. In fear, Tan retrieved his wallet from his jacket and gave it to defendant. Tan's wallet contained currency from different countries, his identification, and credit cards.

Defendant ran to a car parked nearby, which was driven off by another male. After reaching a place of safety, Tan felt something wet on his back and determined he had been stabbed where he earlier believed to have been punched. The wound was closed at the hospital with two staples.

Officer Christopher Chadbourne conducted a traffic stop of a vehicle about one-half mile from the scene of the robbery at 12:10 a.m. on January 30, 2008. The vehicle had its headlights off and lacked a front license plate. Defendant was the passenger in the car. Another officer recovered a knife from the area between the passenger seat and center console. Tan's wallet was found under the right front passenger seat, secreted in the seat's wiring.

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<sup>1</sup> All statutory references are to the Penal Code.

Officer Chadbourne showed photographs to Tan at the hospital, leading to the identification of defendant as the robber. The next day, the police returned Tan's wallet to him at the police station. The wallet contained his currency, identification, and cards.

It was stipulated that defendant did not have a tattoo on his cheek at the time of the crime. He did have a tattoo on his cheek by the time of trial.

## **DISCUSSION**

This court appointed counsel to represent defendant on appeal. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, raising no issues but requesting an independent review of the record by this court. Defendant was notified by letter of his right to file a supplemental brief with this court. No brief has been filed.

We have completed our independent review of the record and conclude there are no arguable appellate issues. The judgment is affirmed. (*Smith v. Robbins* (2000) 528 U.S. 259.)

KRIEGLER, J.

We concur:

ARMSTRONG, Acting P. J.

MOSK, J.